

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Decision on Appeal – Affirm-in-Part and enter a New Ground of Rejection – mailed on May 18, 2011, and the references cited therewith.

Claims 61, 65-66, 69-71, and 73 are amended, claims 1-60 and 72 are canceled, and no claims are added; as a result, claims 61-71 and 73 are now pending in this application.

Examiner Interview Summary

Applicant thanks Examiner Roy D. Gibson for the courtesy of a telephone interview on June 21, 2011. Applicant and Examiner Gibson appeared to reach agreement that independent claims 61, 67, and 69-70 and the remarks, as presented herein, would overcome the grounds for rejection as presented in the Decision on Appeal. Applicant thanks Examiner Gibson for his time and consideration.

§103 Rejection of the Claims

Claims 61, 63, 69-71, and 73 were rejected under 35 USC § 103(a) as being allegedly unpatentable over Laufer (U.S. Patent No. 6,488,673) and Trauner (U.S. Patent No. 5,913,884). Applicant respectfully traverses the rejection as follows.

Applicant respectfully notes that the Decision on Appeal (see page 9) appears to reverse the Examiner's decision regarding claims 61, 62, 64-66, and 68 and to affirm the Examiner's decision regarding claims 63, 69-71, and 73, while entering a new ground of rejection for independent claim 61.

Following review of the Decision on Appeal, Applicant notes that page 5, lines 8-10, relating to the rejection of independent claim 61 appears to state concerning the Laufer reference that "the record does not set forth a sufficient factual basis to support the Examiner's finding that enough energy *necessarily* reaches the adventitial area to increase its area." (Italics in original).

However, Applicant notes that the rejection of dependent claim 63 on page 6, lines 5-6, appears to state concerning the Trauner reference that “the adventitial area need not be the target or site of the injection” and that consistent verbiage is used in the rejection of independent claims 69-70. Accordingly, Applicant has amended claim 61 to clarify “applying energy to the adventitial area of the target tissue to react within the photoactivatable agent” and has consistently amended claims 65-66, 69-71, and 73.

Hence, Applicant respectfully submits that the Laufer and Trauner references, individually or in combination, do not teach, suggest, or render obvious administering a therapeutically effective amount of a photoactivatable agent to a subject, such that the agent is taken up by the adventitial area of a target tissue, applying energy to the adventitial area of the target tissue to react within the photoactivatable agent, and increasing the adventitial area in the area of the target tissue.

In contrast, Applicant’s independent claim 61, as currently amended, presently recites:

administering a therapeutically effective amount of a photoactivatable agent to a subject, such that the agent is taken up by the adventitial area of a target tissue;

applying energy to the adventitial area of the target tissue to react within the photoactivatable agent; and

increasing the adventitial area in the area of the target tissue.

Applicant’s independent claim 69, as currently amended, presently recites:

applying an agent and irradiating a target region of tissue with UVC irradiation to accomplish an interaction between the agent and the UVC irradiation; and

inducing fibrosis or increasing an adventitial layer in at least one layer of the tissue;

wherein the step of irradiating the target region further comprises irradiating the adventitial layer of the target region externally using an external light delivery source.

In addition, Applicant's independent claim 70, as currently amended, presently recites:

applying an agent and irradiating a target region of tissue with UVC irradiation to accomplish an interaction between the agent and the UVC irradiation; and

inducing fibrosis or increasing an adventitial layer in at least one layer of the tissue;

wherein the step of irradiating the target region further comprises irradiating an adventitial layer of the target region internally using a light delivery catheter.

As such, Applicant respectfully submits that the Laufer and Trauner references, individually or in combination, do not teach, suggest, or render obvious each and every element and limitation of Applicant's independent claims 61 and 69-70, as currently amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of independent claims 61 and 69-70, as currently amended, as well as those claims that depend therefrom.

Allowable Subject Matter

The Examiner appears to have previously indicated that independent claim 67, as previously presented, recites allowable subject matter. The Decision on Appeal appears to confirm the same.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0126 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being electronically filed with the United States Patent and Trademark Office on this 30th day of June, 2011.

Angela Miller
Name

A. Miller
Signature

Respectfully Submitted,
Robert A. Van Tassel, et al.

By Applicants' Representatives,
Brooks, Cameron & Huebsch, PLLC
1221 Nicollet Avenue, Suite 500
Minneapolis, MN 55403

By: K. G. Waddick
Kevin G. Waddick
Reg. No. 57,007

Date: June 30, 2011